

APPEAL NO. 032388
FILED OCTOBER 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 12, 2003. The hearing officer determined that the respondent's (claimant) compensable injury extends to and includes a sacroiliac joint dysfunction and a bulging disc at the L1-2 spinal level but does not extend to or include a bulging disc at the claimant's L4-5 spinal level. The hearing officer's determinations regarding disc bulges at the L1-2 and L4-5 spinal levels have not been appealed and have become final pursuant to Section 410.169.

The appellant (carrier) appeals the determination that the compensable injury includes the sacroiliac joint dysfunction on the basis that the condition had completely resolved and that the current sacroiliac joint dysfunction was the result of a new injury occurring in (subsequent date of injury). The claimant responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____, in a fall or jump from a ladder. The claimant was treated and eventually returned to his preinjury type work with another employer as a welder/iron worker in 2001. After an incident picking up a pipe in (subsequent date of injury) the claimant again experienced the type of symptoms that he had with his original injury. The hearing officer, in her discussion, notes that there is a fine line between flare-up symptoms from an existing injury and the occurrence of a new injury. The hearing officer discusses why she believed the sacroiliac joint dysfunction was due to the original November 1999 injury. The hearing officer's determinations are supported by medical records and the reports of December 23, 2001, and April 16, 2002, from the treating doctor.

To the extent that there was conflicting evidence, the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN INTERSTATE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**STEVE ROPER
1616 SOUTH CHESTNUT STREET
LUFKIN, TEXAS 75901.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge